

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

CLAUDIO GIULIANO, individually and on	)	
behalf of a nationwide class of similarly situated	)	
individuals,	)	
	)	No. 1:19-cv-05436
Plaintiff,	)	
	)	Judge John Z. Lee
vs.	)	
	)	Magistrate Judge Susan E. Cox
MIDLAND CREDIT MANAGEMENT, INC.,	)	
	)	
Defendant.	)	

**AGREED JOINT MOTION TO STAY PROCEEDINGS**

Plaintiff Claudio Giuliano and Defendant Midland Credit Management, Inc. (“MCM”), by and through their attorneys, respectfully move the Court to stay the proceedings in this matter pending the outcome of the appeal pending before the Seventh Circuit Court of Appeals in *Preston v. Midland Credit Management, Inc.*, Case No. 18-3119. In support of this motion, the parties state as follows:

1. Plaintiff brought this class action on August 12, 2019, claiming violations of the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. 1692 *et seq.* in connection with a collection letter which offered payment plan options on an account owned by Midland Funding, LLC. The letter was enclosed in an envelope with the words “TIME SENSITIVE DOCUMENT” printed on it. Plaintiff alleges that use of the words “TIME SENSITIVE DOCUMENT” on the envelope violates Sections 1692f and 1692f(8) of the FDCPA (Counts I, II), that the letter and envelope together violate Sections 1692e(2)(a) and 1692e(10) of the FDCPA (Counts III-VI) and that the mailing date on the letter was misreported in violation of Sections 1692e and 1692f of the FDCPA (Counts VII-X).

2. The parties seek a stay of this case pending a ruling in the *Preston* case. In *Preston* the Seventh Circuit is addressing whether the district court properly dismissed the FDCPA claims in that case against MCM involving use of the words “TIME SENSITIVE DOCUMENT” on an envelope containing a letter offering payment plan options.

3. The Seventh Circuit heard oral argument on May 29, 2019. The court further invited the CFPB to file a brief as *amicus curiae*. The CFPB filed its brief on September 5, 2019 and the parties filed their responses on September 25, 2019. The briefing is complete and the parties expect the Seventh Circuit to issue a ruling soon.

4. Defendant has been served and has appeared. Its deadline to file a response to the complaint is October 15, 2019.<sup>1</sup>

5. Given that the *Preston* decision will impact Plaintiff’s claims, the parties request that the court stay all deadlines until after the Seventh Circuit rules in *Preston*. The parties propose that they file a notice on the docket when the Seventh Circuit issues its ruling and that the court thereafter convene a status hearing for purposes of setting any further deadlines.

WHEREFORE, Claudio Giuliano and Midland Credit Management, Inc. respectfully move the Court to stay the proceedings in this matter pending the outcome of decision by the Seventh Circuit in *Preston v. Midland Credit Management, Inc.*, Case No. 18-3119.

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<sup>1</sup> Defendant was granted until October 14, however, due to the court holiday the deadline falls on October 15, 2019.

Respectfully Submitted,

/s/James C. Vlahakis

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**CERTIFICATE OF SERVICE**

I hereby certify that on October 10, 2019, I electronically filed with the Clerk of the U.S. District Court, Northern District of Illinois, Eastern Division, the foregoing **Agreed Joint Motion to Stay Proceedings** by using the CM/ECF system, which will send notification of such filing(s) to all counsel of record listed below:

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*/s/ Jennifer W. Weller*

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